IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRTY FIRST DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 15551 of 2004

Between:

1 Ajmankar Kishan S/o Chinnaji,
2 Ajmankar Eswar, S/o Chinnaji,
3 Ajmankar Ratan, S/o Chinnaji,
4 Ajmankar Mohan, S/o Chinnaji,
All are R/o Kasabgalli, Kamareddy Mandal,
Nizamabad District.

..... PETITIONER(S)

AND

1 The Joint Collector,Nizamabad.
2 The Revenue Divisional Officer, Kamareddy,Nizamabad District.
3 The Mandal Revenue Officer, Kamareddy,Nizamabad District.
4 Gudella Mallaiah, Major, s/o Bondaiah,
5 Gudelli Yadaiah, Major, s/o Bondaiah,
6 Gudelli Ramulu, Major, s/o Bondaiah,
Respondents 4 to 6 R/o Devenpalli Village, Kamareddy Mandal,Nizamabad District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction more particularly one in the nature of writ of Mandamus by declaring the impugned order dt. 22-5-2004 in case No. D2/31/2002 on the file of the 1st respondent and the order passed by the 2nd respondent dt. 18-9-2002 in file no. A3/1269/2002, as illegal, arbitrary and without jurisdiction and set aside the same.

For the Petitioner: MR.B.VIJAYSEN REDDY , Advocate

For the Respondent No.: GP FOR REVENUE

The Court at the admission stage made the following :

ORAL ORDER:

Petitioners' application for regularization of the sale deed over an extent of 1.132 guntas situate at Devanpalli village, Kamareddy Mandal was allowed by the Mandal Revenue Officer, Kamareddy under Section 5A of the A.P. Record of Rights and Pattedar Pass Books Act, 1971 (for short "the Act"). Aggrieved by the same, the respondents, who claims to have purchased Ac.0.32 guntas of land under registered sale deed dt. 18-11-1977 filed an appeal before Revenue Divisional Officer, Kamareddy, who after calling the files from the MRO's office, held that petitioners have not filed the original sale deed but only Xerox copy of the sale deed was filed. File was not processed properly. Regarding stamp duty as required under section 5(A) of the Act, certificate in Form 13(a) was not issued. The stamp duty of Rs.8640-00 claimed to have been remitted by the petitioners was not actually remitted. The certificate in Form-13(a) was issued and the challan No.1036 dt. 19-11-1997 for Rs. 130/- and challan No.1035 dt. 19-11-1997 for Rs.1235/- available in the file are not concerned with that of the land mutated in favour of the petitioners. Holding so, cancelled the regularization of sale deed. Aggrieved by the same, petitioners' carried the matter in revision before the Joint Collector, who after taking note of the same dismissed the revision holding that Revenue Divisional Officer has not enquired into the matter under Section 6 which is a mandatory one and confirmed the order of the Revenue Divisional Officer in canceling the sale deed. Questioning the legality and validity of the said order, petitioners' filed the present writ petition.

Learned counsel for the petitioners contends that when certain irregularities have been pointed out in setting aside the regularization of sale deed, the authorities could have remitted the matter to the Primary Authority for de novo enquiry, but the

rights of the petitioners cannot be foreclosed once for all, when respondents 4 and 5 claim to have purchased Ac.0-32 guntas only

Admittedly, petitioners have not filed the original sale deed but only produced the Xerox copy. Since there is procedural irregularity in entertaining the application, I do not see any infirmity in the order of the Revenue Divisional Officer in canceling the validity of the sale as confirmed by the Joint Collector. If the petitioners still feel that they are entitled to regularization, it is always open for them to follow due procedure and can file original sale deed for regularization of the same under section 5-A of the Act. If the petitioners made any such application, it is for the Mandal Revenue Officer to conduct an enquiry and pass orders.

The writ petition is accordingly dismissed.

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A.GOPAL REDDY,J

Dt.31-8-2004

Murthy/kmr

To

1 The Joint Collector,Nizamabad.
2 The Revenue Divisional Officer, Kamareddy,Nizamabad District.
3 The Mandal Revenue Officer, Kamareddy,Nizamabad District

4. Two CCs to the Govt., Pleader for Revenue, High Court Buildings, Hyderabad (OUT

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